

(6) any employment contract providing for direct services to a Federal agency by an individual or individuals; and

(7) any contract with the United States Postal Service, the principal purpose of which is the operation of postal contract stations.

(Pub. L. 89-286, § 7, Oct. 22, 1965, 79 Stat. 1035; Pub. L. 91-375, §§ 4(a), 6(o), Aug. 12, 1970, 84 Stat. 773, 783.)

#### REFERENCES IN TEXT

The Walsh-Healey Public Contracts Act, referred to in par. (2), probably means act June 30, 1936, ch. 881, 49 Stat. 2036, as amended, known as the Walsh-Healey Act, which is classified generally to sections 35 to 45 of this title. For complete classification of this Act to the Code, see Short Title note under section 35 of this title and Tables. See also section 262 of Title 29, Labor.

The Communications Act of 1934, as amended, referred to in par. (4), is act June 19, 1934, ch. 652, 48 Stat. 1064, as amended, which is classified principally to chapter 5 (§151 et seq.) of Title 47, Telegraphs, Telephones, and Radiotelegraphs. For complete classification of this Act to the Code, see section 609 of Title 47 and Tables.

#### CHANGE OF NAME

In par. (7), “United States Postal Service” substituted for “Post Office Department” pursuant to Pub. L. 91-375, §§ 4(a), 6(o), Aug. 12, 1970, 84 Stat. 773, 783, which are set out as notes preceding section 101 of Title 39, Postal Service, and under section 201 of Title 39, respectively, which abolished Post Office Department, transferred its functions to United States Postal Service, and provided that references in other laws to Post Office Department shall be considered a reference to United States Postal Service.

### § 357. Definitions

For the purposes of this chapter—

(a) “Secretary” means Secretary of Labor.

(b) The term “service employee” means any person engaged in the performance of a contract entered into by the United States and not exempted under section 356 of this title, whether negotiated or advertised, the principal purpose of which is to furnish services in the United States (other than any person employed in a bona fide executive, administrative, or professional capacity, as those terms are defined in part 541 of title 29, Code of Federal Regulations, as of July 30, 1976, and any subsequent revision of those regulations); and shall include all such persons regardless of any contractual relationship that may be alleged to exist between a contractor or subcontractor and such persons.

(c) The term “compensation” means any of the payments or fringe benefits described in section 351 of this title.

(d) The term “United States” when used in a geographical sense shall include any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Outer Continental Shelf lands as defined in the Outer Continental Shelf Lands Act, American Samoa, Guam, Wake Island, Eniwetok Atoll, Kwajalein Atoll, Johnston Island, and Canton Island, but shall not include any other territory under the jurisdiction of the United States or any United States base or possession within a foreign country.

(Pub. L. 89-286, § 8, Oct. 22, 1965, 79 Stat. 1036; Pub. L. 93-57, § 1, July 6, 1973, 87 Stat. 140; Pub. L. 94-489, § 3, Oct. 13, 1976, 90 Stat. 2358.)

#### REFERENCES IN TEXT

The Outer Continental Shelf Lands Act, referred to in subsec. (d), is act Aug. 7, 1953, ch. 345, 67 Stat. 462, as amended, which is classified generally to subchapter III (§1331 et seq.) of chapter 29 of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1331 of Title 43 and Tables.

#### AMENDMENTS

1976—Subsec. (b). Pub. L. 94-489 substituted provision defining service employees to include all employees, but excluding bona fide executive, administrative, and professional employees, for provision defining service employees as guards, watchmen, any person engaged in a recognized trade or craft, or in unskilled, semiskilled, or skilled manual labor occupations; and any other employee including a foreman or supervisor in a position having trade, craft, or laboring experience as the paramount requirement.

1973—Subsec. (d). Pub. L. 93-57 defined “United States” to include Canton Island.

#### EFFECTIVE DATE OF 1973 AMENDMENT

Section 2 of Pub. L. 93-57 provided that: “The amendment made hereby [amending this section] shall be effective with respect to all contracts entered into at any time after the date of enactment [July 6, 1973].”

### § 358. Wage and fringe benefit determinations of Secretary

It is the intent of the Congress that determinations of minimum monetary wages and fringe benefits for the various classes of service employees under the provisions of paragraphs (1) and (2) of section 351<sup>1</sup> of this title should be made with respect to all contracts subject to this chapter, as soon as it is administratively feasible to do so. In any event, the Secretary shall make such determinations with respect to at least the following contracts subject to this chapter which are entered into during the applicable fiscal year:

(1) For the fiscal year ending June 30, 1973, all contracts under which more than twenty-five service employees are to be employed.

(2) For the fiscal year ending June 30, 1974, all contracts, under which more than twenty service employees are to be employed.

(3) For the fiscal year ending June 30, 1975, all contracts under which more than fifteen service employees are to be employed.

(4) For the fiscal year ending June 30, 1976, all contracts under which more than ten service employees are to be employed.

(5) On or after July 1, 1976, all contracts under which more than five service employees are to be employed.

(Pub. L. 89-286, § 10, as added Pub. L. 92-473, § 5, Oct. 9, 1972, 86 Stat. 790; amended Pub. L. 94-273, § 29, Apr. 21, 1976, 90 Stat. 380.)

#### AMENDMENTS

1976—Par. (5). Pub. L. 94-273 substituted “On or after July 1, 1976” for “For the fiscal year ending June 30, 1977, and for each fiscal year thereafter”.

<sup>1</sup> So in original. Probably should be section “351(a)”.

# **CHAPTER 7—OFFICE OF FEDERAL PROCUREMENT POLICY**

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|-----------|---|-------|--|
| Sec.      |   |       |  |
| 401, 402. | Repealed.   |       | (b) Contents of notice.  |
| 403.      | Definitions.  |       | (c) Exempted, etc., activities of executive agency.  |
| 404.      | Establishment of Office of Federal Procurement Policy; appointment of Administrator.  | 417.  | (d) Availability of complete solicitation package; payment of fee.   |
| 405.      | Authority and functions of the Administrator.   |       | Record requirements.   |
|           | (a) Development of procurement policy; leadership.  |       | (a) Establishment and maintenance of computer file by executive agency; time period; coverage.                                 |
|           | (b) Government-wide procurement regulations.  | 417a. | (b) Contents.  |
|           | (c) Noninterference with executive agencies.  |       | (c) Record categories.   |
|           | (d) Enumeration of included functions.  | 418.  | (d) Transmission and data system entry of information.   |
|           | (e) Consultation; assistance of existing executive agencies; advisory committees and interagency groups.  |       | Procurement data.  |
|           | (f) Oversight of regulations promulgated by other agencies relating to procurement.   |       | (a) Reporting.   |
|           | (g) Assignment, delegation, or transfer of functions prohibited.  | 418a. | (b) Definitions.   |
|           | (h) Real property procurement; Office of Management and Budget.   |       | Advocates for competition.   |
|           | (i) Recipients of Federal grants or assistance.   |       | (a) Establishment, designation, etc., in executive agency.   |
|           | (j) Policy regarding consideration of contractor past performance.  | 418b. | (b) Duties and functions.  |
|           | (k) Annual reporting requirement.   |       | (c) Responsibilities.  |
| 405a.     | Uniform Federal procurement regulations and procedures.   |       | Rights in technical data.  |
| 405b.     | Conflict of interest standards for individuals providing consulting services.   |       | (a) Regulations; legitimate proprietary interest of United States.   |
|           | (a) Issuance of policy and regulations.   |       | (b) Unlimited rights; technical data; developed with Federal funds; unrestricted, royalty-free right to use; rights under law. |
|           | (b) Services subject to regulations.  |       | (c) Factors; regulations.  |
|           | (c) Report to Congress by Comptroller General on effectiveness of regulations.  |       | (d) Provisions; contracts; regulations.  |
|           | (d) Intelligence activities exemption; annual report by Director of Central Intelligence.   | 419.  | Publication of proposed regulations.   |
|           | (e) Adverse effect determination by President prior to issuance of regulations; report to Congressional committees; voiding of regulations requirement. |       | (a) Effective date; procurement policy, regulations, procedure or form; publication in Federal Register.                       |
| 406.      | Administrative powers.  |       | (b) Publication in Federal Register.   |
| 407.      | Repealed.   |       | (c) Notice; proposed policy; contents.   |
| 408.      | Applicability of existing laws.   |       | (d) Waiver.  |
| 409.      | Repealed.   |       | Contracting functions performed by Federal personnel.  |
| 410.      | Authorization of appropriations.  |       | (a) Limitation on payment for advisory and assistance services.  |
| 411.      | Delegation of authority by Administrator.   |       | (b) Covered personnel.   |
| 412.      | Comptroller General's access to information from Administrator; rule making procedure.  | 420.  | (c) Rule of construction.  |
| 413.      | Tests of innovative procurement methods and procedures.   | 421.  | Repealed.  |
| 414.      | Chief Acquisition Officers and senior procurement executives.   |       | Federal Acquisition Regulatory Council.  |
|           | (a) Establishment of agency Chief Acquisition Officers.   |       | (a) Establishment.   |
|           | (b) Authority and functions of agency Chief Acquisition Officers.   |       | (b) Membership.  |
|           | (c) Senior procurement executive.   |       | (c) Functions.   |
| 414a.     | Personnel evaluation.   |       | (d) Additional responsibilities of membership.   |
| 414b.     | Chief Acquisition Officers Council.   |       | (e) Governing policies.  |
|           | (a) Establishment.  |       | (f) General authority with respect to FAR.   |
|           | (b) Membership.   | 422.  | Cost Accounting Standards Board.   |
|           | (c) Leadership; support.  |       | (a) Establishment; membership; terms.  |
|           | (d) Principal forum.  |       | (b) Senior staff.  |
|           | (e) Functions.  |       | (c) Other staff.   |
| 415.      | Repealed.   |       | (d) Detailed and temporary personnel.  |
| 416.      | Procurement notice.   |       | (e) Compensation.  |
|           | (a) Covered executive agency activities; publication of notice; time limitations.   |       | (f) Cost accounting standards authority.   |
|           |   |       | (g) Requirements for standards.  |
|           |   |       | (h) Implementing regulations.  |
|           |   |       | (i) Omitted.   |
|           |   |       | (j) Effect on other standards and regulations.   |
|           |   |       | (k) Examinations.  |
|           |   |       | (l) Authorization of appropriations.   |
|           |   | 423.  | Restrictions on disclosing and obtaining contractor bid or proposal information or source selection information.               |
|           |   |       | (a) Prohibition on disclosing procurement information.   |
|           |   |       | (b) Prohibition on obtaining procurement information.  |
|           |   |       | (c) Actions required of procurement officers when contacted by offerors regarding non-Federal employment.                      |
|           |   |       | (d) Prohibition on former official's acceptance of compensation from contractor.   |